

APPEAL NO. 020243
FILED MARCH 11, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 14, 2002. The hearing officer determined that the respondent's (claimant) compensable cervical and lumbar spine injury of _____, extends to and includes her depression and anxiety and her bilateral leg symptoms due to her lumbar radiculopathy. The appellant (self-insured) has appealed on sufficiency of the evidence grounds. The claimant has not submitted a response.

DECISION

Affirmed.

On _____, the claimant sustained injuries to her cervical and lumbar spine, and the self-insured has accepted those injuries. The claimant testified at the hearing and offered evidence that she also suffers from depression and anxiety and that she has radicular pain in her legs from her injury; that her depression started soon after her injury; and that although her husband suffered a heart attack and died within a year of her injury, she had already been depressed and anxious from her injury because she could not work and she was always in pain. In its appeal, the self-insured points to evidence that the claimant had many other factors in her life which caused her depression; that her injury was relatively insignificant; and that the designated doctor appointed by the Texas Workers' Compensation Commission had stated that the claimant's injury did not contribute to her depression and anxiety.

Whether a compensable injury extends to and includes a psychological condition is a question of fact for the hearing officer to decide. The hearing officer found that the claimant's original injury was a producing cause of her psychological problems and that the claimant's bilateral leg symptoms were due to her lumbar radiculopathy. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer determined that the evidence established that the claimant's psychological problems and bilateral leg symptoms due to her lumbar radiculopathy, began shortly after the original injury, and were caused by the original injury. We will reverse a factual determination of a hearing officer only if that determination is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard of review to the record of this case, we decline to substitute

our opinion of the evidence for that of the hearing officer.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **STATE OFFICE OF RISK MANAGEMENT (a self-insured governmental entity)** and the name and address of its registered agent for service of process is

For service in person:

**RON JOSSELET, EXECUTIVE DIRECTOR
THE STATE OFFICE OF RISK MANAGEMENT
300 W. 15TH STREET
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING
6TH FLOOR
AUSTIN, TEXAS 78701.**

For service by mail:

**RON JOSSELET, EXECUTIVE DIRECTOR
THE STATE OFFICE OF RISK MANAGEMENT
P.O. BOX 13777
AUSTIN, TEXAS 78711-3777.**

Michael B. McShane
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge